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**Model Protocol**  
**on**  
**Police Response to**  
**Wife Assault**



The views expressed in this document are those of the Steering Committee on Wife Assault and are not necessarily those of the Ministry of the Solicitor General and Correctional Services.

The Model Protocol on Police Response to Wife Assault is available from:

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# **Wife Assault: Definition of Key Terms**

**Wife Assault:** Physical assault, sexual assault, psychological abuse, and/or threats of physical assault, directed by a man toward his female partner with whom there is or has been a relationship, whether or not the relationship has received legal sanction as a marriage and includes assaults in or outside the home. It does not matter that at the time of the wife assault the man did not live with the woman.

This is differentiated from domestic conflicts between two or more persons who are associated with each other, whether living together or not, including same-sex relationships.

**Wife Assault Guideline:** A model to be used by local police services to establish a standardized approach for police service responses to wife assault, throughout the Province of Ontario.

**Reasonable Grounds:** This term, which is frequently used in our law, has been interpreted as follows:

"A set of circumstances which would satisfy an ordinary, cautious and prudent person that there is reason to believe a crime has been committed and which go beyond mere suspicion."

A police officer, in deciding whether or not there are reasonable grounds for any action contemplated, must review all of the facts, including verbal evidence, and then decide if these facts satisfy the interpretation.



In the spirit of the new Police Services Act, and the ongoing commitment by the Ministry of the Solicitor General and Correctional Services to reduce violence against women and children, a project was undertaken to enhance and expand the current Directive Regarding Spousal Assault, first issued in 1982.

A Steering Committee on Wife Assault was formed in July 1991. Its members included representatives from women's organizations, government ministries and the Ontario Police College. The Committee pledged to take a community-based, collaborative approach in the remodelling of the current directive, so that the concerns and responsibilities of government, police and women's organizations would be integrated.

The Committee acted on this principle of co-responsibility by co-ordinating province-wide public consultations with community organizations and police services. The consultations focused upon gathering verbal and written recommendations for improving police response to wife assault.

Among the broad range of issues raised were the safety of all women and children, including the needs of racial minority women, Aboriginal women, non-English-speaking women and women with disabilities. Other issues raised included police accountability, police attitude and sensitivity to women's issues, and consistency in laying charges.

As a result of these consultations, a number of areas of concern in the current directive regarding wife assault were identified and a model protocol on enhanced police procedures was written. The Committee recommends that this model protocol be developed into a provincial guideline to act as the model for local police services to develop their own protocols, in collaboration with community organizations.

## The Police Services Act

1. Police services shall be provided throughout Ontario in accordance with the following principles:
  1. The need to ensure the safety and security of all persons and property in Ontario.
  2. The importance of safeguarding the fundamental rights guaranteed by the *Canadian Charter of Rights and Freedoms* and the *Human Rights Code, 1981*.
  3. The need for co-operation between the providers of police services and the communities they serve.
  4. The importance of respect for victims of crime and understanding of their needs.
  5. The need for sensitivity to the pluralistic, multiracial and multicultural character of Ontario society.
  6. The need to ensure that police services are representative of the communities they serve.



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## **Declaration of Goals**

The Steering Committee on Wife Assault resolved to develop a recommended policy and procedure on wife assault to ensure an effective and consistent police response.

The following objectives have become a part of the design of this policy and procedure as a result of the committee's work, done in consultation with stakeholders in the Province of Ontario:

- The reduction of violence against women and children through improved police response to wife assault.
- The accountability of all police services in their response to wife assault.
- That all police services establish in police orders the police duty to lay charges in all incidents of wife assault where there are reasonable grounds to believe that an offence has been committed.
- Recognition of and addressing the needs of all women, including racial minority women, Aboriginal women, non-English-speaking women and women with disabilities.
- Incorporation of the principle of the collaborative approach to police services in establishing a community protocol to ensure an effective and consistent response to wife assault.
- The utilization of standard definitions of the key terms relating to cases of wife assault.
- A new emphasis on continuing in-service training for all police regarding the delivery of services in wife assault cases.





## A. Policy Recommendations

- A.1 That each police service have a policy to reduce violence against women by improving their response to wife assault calls according to the procedure set out in this model protocol.

That all police services incorporate in their policy the police duty to lay charges in all incidents of wife assault where there are reasonable grounds, including verbal statements from the assaulted woman, physical injuries or other physical evidence of assault.

That all police services in Ontario establish a community protocol for responding to wife assault by taking a collaborative approach utilizing all possible community resources. The community protocol should include all recommendations laid out in this model protocol.

- A.2 Wife assault is serious and widespread. According to the provisions of the Police Services Act, the duties of every police officer include:

- preserving the peace;
- preventing crimes and other offenses and providing assistance and encouragement to other persons in their prevention;
- assisting victims of crimes;
- laying charges, prosecuting and participating in prosecutions;
- executing warrants that are to be executed by police officers and performing related duties.

- A.3 Wife assault calls receive a priority response.

- A.4 When criminal charges have been laid as a result of an investigation into a complaint of wife assault, and the circumstances so require, the accused will be held for a show cause hearing.

In all cases, the police officer or officers in attendance or the officer or officers in charge of the investigation will explain to the assaulted woman, in clear detail, the nature of the proceedings against the accused that will follow his arrest.

The assaulted woman will also be fully informed about the conditions of release at the time release is arranged through a show cause hearing.

A.5 The police officer or officers attending a complaint of wife assault must file a detailed police occurrence report, whether or not a charge is laid. The police officer or officers in charge of the investigation will inform the complainant and the accused that such a report will be completed and kept on file.

A.6 Police officers are reminded to refer to section 68(3) of the Child and Family Services Act for further information where children are concerned.

A.7 It is the duty of the police in attendance at a wife assault call to assist in the safety and security of the assaulted woman. This duty extends beyond the laying of charges. The attending officer or officers may inform the assaulted woman of the legal and other options available to her and provide her with referrals to community services.

A.8 The police services in Ontario will conduct or make available to their members training programs on wife assault prevention. Consideration should be given to using front-line community professionals in delivering these training programs. The training programs should include:

- I. Issues relating to women which include, but are not limited to, the nature of power and control in relationships, the extent of the effects of physical assault and/or psychological abuse on women and the common myths associated with wife assault.
- II. Issues relating to sensitivity towards Aboriginal, racial minority women, non-English-speaking women and women with disabilities.
- III. Directives, procedures and community protocols within the police service on responding to wife assault occurrences.

A.9 Accountability of police services responding to wife assault calls will take several forms:

1. Monitoring by the Policing Services Division, Ministry of the Solicitor General and Correctional Services.
2. Occurrence reports shall be reviewed by a person designated by the police service.
3. The ministry will continue to collect and release data regarding wife assault charges (Law Enforcement Activity in Relation to Spousal Assault in Ontario).



4. The Police Services Act provides for a public complaints bureau in each municipality to deal with complaints by members of the public about the conduct of police officers. Part VI of the Act, administered by the Attorney General, further provides for the appointment of a Police Complaints Commissioner (the "Commissioner").

The relevant sections follow:

- 77(1) A member of the public may make a complaint about the conduct of a police officer, orally or in writing:
- (a) at the bureau of the police force to which the complaint relates, or at a station or detachment of that police force; or
  - (b) at an office of the Commissioner, or
  - (c) at any bureau, police station or detachment.
- (3) The person who makes the complaint shall also be given a statement, in a form provided by the Commissioner, that sets out the procedures followed in dealing with complaints and describes the rights of a complainant.
- 80(1) If the complaint is made by a person who was not directly affected by the incident and did not observe it, the Commissioner shall, as soon as possible after receiving the complaint, attempt to find the person who was directly affected by the incident or who observed it and send him or her a notice.
- (2) The notice shall indicate that a complaint has been made, that the person is entitled to be the complainant in the matter and that the complaint will not be dealt with further unless he/she is the complainant.
  - (3) The notice shall also include information about the procedures followed in dealing with a complaint and the rights of a complainant.
  - (4) The complaint shall not be further dealt with under this Part if;
    - (a) no person who was directly affected by the incident or who observed it can be found, or
    - (b) the person to whom the Commissioner sends the notice does not, within thirty days of the date on which it is sent, file with the Commissioner a request to be the complainant in the matter.





## B. Procedure Recommendations

- B.1 Wife assault complaints received by police communications will be given a priority response.
- B.2 When a call is received where the suspect has threatened violence and there is reason to believe the suspect intends to go to the victim's location, or where violence has occurred, a police officer or officers will respond to the scene whether the suspect is present or not.
- B.3 Upon arrival at the scene, if an assault has occurred, the attending officer or officers will assist the woman in obtaining medical attention.
- B.4 The officer or officers in attendance must consider whether offenses other than assault have been committed, which would require charges to be laid whether or not the complainant's initial complaint made mention of offenses other than assault. These include:
  - I. Contravention of a valid order pursuant to section 24 of the Family Law Act, (possession of the matrimonial home). If the officer or officers determine on reasonable grounds that such an order exists and that one of the parties is in contravention of that order, then the accused may be arrested and charged, whether or not the complainant consented to the presence of the accused. If the complainant is unable to produce a copy of the court order, then the officer or officers in attendance should verify, where possible, the existence of the order with the court office, lawyers representing one or both parties, a previous investigating officer or officers, other agencies, support groups or shelters which may have a copy of the court order.
  - II. Contravention of a valid order pursuant to section 46 of the Family Law Act (molesting, annoying or harassing); or pursuant to section 35 of the Children's Law Reform Act (order restraining harassment). If the attending officer or officers determine on reasonable grounds that such an order exists and that one of the parties is in contravention of that order, the accused may be arrested and charged, whether or not the complainant consented to the presence of the accused. If the complainant is unable to produce a copy of the court order, then the officer or officers in attendance should, where possible, check with the court office, lawyers representing one or both parties, a previous investigating officer or officers, other agencies, support groups or shelters which may have a copy of the court order.

III. If the attending officer or officers determine on reasonable grounds that a recognizance exists pursuant to section 810 of the Criminal Code (sureties to keep the peace) and that one of the parties is in contravention of that order, then the officer or officers shall arrest the accused and lay charges, whether or not the complainant consented to the presence of the accused. Where reasonable grounds exist to believe that the accused has contravened (not found committing), the officer or officers shall proceed by summons.

B.5 If the complainant expresses concern about her safety and security and no charge has been laid pursuant to the Criminal Code or the Family Law Act, the attending officer or officers shall: inform the complainant of section 810 of the Criminal Code: recognizance to keep the peace; and inform the complainant about available legal resources, and/or:

The officer or officers in attendance may inform the complainant, where applicable, of the provisions of the Trespass to Property Act if it will assist the complainant in limiting access to the property by the accused, and inform the complainant about available legal resources.

B.6 The officer or officers in attendance will seize and remove all firearms and offensive weapons from the residence as per section 103(2) of the Criminal Code, where circumstances warrant it.

B.7 If possible, interviews with the complainant and the accused about the incident shall be conducted separately and not in the presence of the other party, keeping officer safety in mind.

Where an interpreter is required, an effort should be made to provide one independent of the victim and the accused. Under no circumstances should children present at the scene be used as interpreters for their parents unless it is to inform the parents that an interpreter is being provided.

B.8 A police officer or officers in attendance at wife assault calls where immigration status is an issue or where language is a barrier will use the following procedures:

- I. If language is a barrier, the services of an interpreter will be used where one is available.
- II. The attending officer or officers will explain to the assaulted woman, through the interpreter if required, that her status in Canada will not change in any way as a result of her participation in the judicial process, either as a victim of an offence or as a result of charges laid against the accused.



A fact sheet dispelling the misconceptions regarding a sponsored immigrant's status in cases where a sponsorship is broken down due to wife assault was developed by Employment and Immigration Canada and distributed to immigration officials, community organizations and the public-at-large. A copy of the fact sheet is attached as Appendix 1.

- III. The attending officer or officers should advise the assaulted woman to get independent legal advice as to her immigration status in Canada.
- IV. In some cases, immigrant women who have been assaulted may feel that a partner has the power to seize her identification papers and deport her. The attending officer or officers shall assist the woman in collecting and securing from her residence her identification papers, including landed immigrant records, her birth certificate, her passport, health card and SIN card. Should the identification papers be lost or destroyed, the officer or officers should inform her that these documents can be replaced upon application to the appropriate agencies.

B.9 In all cases where the assaulted woman has a disability, the attending officer or officers will assist the woman, where possible, in the following manner:

- I. In cases where there is a communication barrier due to physical or developmental disability, the attending officer or officers will make all reasonable efforts to contact appropriate community resources to render assistance, including suitable transportation, care and shelter.
- II. If the accused is the assaulted woman's sole caregiver, and his arrest and removal from the residence will, as a direct result, put the assaulted woman at physical risk, the attending officer or officers in charge of the investigation will contact, on the advice of the assaulted woman or her advocate, appropriate resources such as family and community services for the care of the assaulted woman.
- III. It is the duty of the attending officer or officers to know if shelters exist in the community that can provide the care and resources appropriate to the assaulted woman's disability.

In many cases, women with disabilities may choose to use other resources such as family or friends or other support services who can provide the care required. The officer or officers will make every reasonable effort to ensure that the assaulted disabled woman's choice of accommodation is provided.

- B.10 As information processing is a critical component of the police response to wife assault calls, proper documentation procedures should include:
- I. A police officer or officers responding to wife assault calls will record addresses where wife assault has occurred in order to establish the previous history of incidents.
  - II. In response to all wife assault calls, a detailed police occurrence report will be filed, whether or not an assault has occurred.
  - III. The assaulted woman may assist the attending officer or officers in determining the extent and type of conditions of release that will be requested at the show cause hearing.
  - IV. Charged persons and conditions of release may be added to the Canadian Police Information Centre System (CPIC) according to the system's policy.
- B.11 Police services shall provide crucial information about a wife assault case to assaulted women:
- I. The investigating officer or officers will provide information to the assaulted woman concerning the status of the case.
  - II. On the day bail is granted, the assaulted woman must be informed of any conditions of release and provided a copy thereof.
  - III. Release of the offender following incarceration may represent a real danger to the assaulted woman. Police services should make every effort to provide the assaulted woman with information and protection as may be required.
- B.12 Officers responding to wife assault calls are reminded to follow aggressive investigative procedures.

## APPENDIX 1

<b>VICTIMS OF WIFE ASSAULT AND IMMIGRATION STATUS FACT SHEET</b>	
<b>MISCONCEPTIONS</b>	<b>FACTS</b>
<p>1. Immigrants will be automatically deported from Canada if they leave their homes and seek assistance in cases of family violence or marriage breakdown.</p>	<p>1. Leaving a spouse, in and of itself, is NEVER sufficient grounds to deport anyone from Canada. Immigrants have the right of permanent residence in Canada except in cases where they have already abandoned Canada as their place of permanent residence or in cases where they have been ordered deported by an adjudicator because of serious criminal offenses and as a result of an inquiry (a legal hearing where the immigrant has the right of legal representation). Immigrants have the same protection as Canadian citizens under the Canadian Charter of Rights and Freedoms. In cases of physical or emotional danger, the immigrant's first consideration must be his/her personal safety and that of any children involved.</p>
<p>2. Spouses who are applying for immigrant status in Canada will be automatically deported if their sponsors withdraw sponsorship.</p>	<p>2. The immigration application of a spouse is processed in Canada (as an exception to immigration law because the Immigration Act of Canada) based on a family class sponsorship. The sponsored spouse is not required to meet immigrant selection criteria (points system) because his/her spouse agreed to support him/her for up to ten years in making the sponsorship undertaking.</p> <p>The sponsored spouse is given temporary visitor status in Canada while awaiting his/her landed immigrant status. If the relationship breaks down and the sponsorship is withdrawn before landed immigrant status is granted the applicant can be considered as an independent immigrant rather than as a family class immigrant.</p>
<p><b>Continued on next page</b></p>	



## VICTIMS OF WIFE ASSAULT AND IMMIGRATION STATUS FACT SHEET

MISCONCEPTIONS	FACTS
<p>2. Spouses who are applying for immigrant status in Canada will be automatically deported if their sponsors withdraw sponsorship.</p>	<p>Local immigration officials consider each applicant on his/her own merits according to the individual's ability to establish successfully in Canada without becoming a public charge. When the factors under consideration include incidents of physical abuse or family violence immigration counsellors must make a report to the Regional Director of Immigration for a decision as to whether the applicant should be granted landed immigrant status despite the lack of a family class sponsorship.</p> <p>In cases where the application for landed immigrant status is refused, the applicant is asked to leave voluntarily before any removal action is considered. Deportation is always a last resort and can only be ordered by an adjudicator who is independent of the Canada Employment and Immigration Commission (not an immigration counsellor) as a result of an INQUIRY (a legal hearing where the applicant has the right to be represented by legal counsel).</p>

## VICTIMS OF WIFE ASSAULT AND IMMIGRATION STATUS FACT SHEET

MISCONCEPTIONS	FACTS
<p>3. Sponsored immigrants are not entitled to any public assistance if they leave their sponsors.</p>	<p>3. Because the sponsorship undertaking constitutes a legal contract and promise by the sponsor to provide for the needs of the sponsored immigrants, social assistance programs are generally not freely provided to sponsored immigrants. If, however, it is determined that the relationship between the sponsor and the sponsored immigrant is no longer tenable, the sponsored immigrant will not be denied access to publicly-funded assistance programs. Sponsored immigrants, like residents of Canada, are fully entitled to social assistance benefits when they have a demonstrable need. However, in keeping with the terms of the sponsorship undertaking and Canada's immigration legislation, the sponsor may be sued for recovery of the cost of providing such social assistance.</p>
<p>4. There is no easy way to distinguish an immigrant from an immigrant applicant.</p>	<p>4. Every immigrant is issued an immigrant visa (form IMM 1000 entitled <u>Canadian Immigrant Record and Visa</u> or <u>Immigrant Visa and Record of Landing</u>) when they are granted immigrant status.</p> <p>A person in Canada applying for immigrant status is issued either a visitor document (form IMM 1097, Visitor Authorization; form IMM 1208, Student Authorization; Employment Authorization) or a Minister's Permit.</p> <p>If an individual does not have a copy of his/her immigration document, the local Canada Immigration Centre can verify, upon the request of the individual concerned, his/her immigration status in Canada.</p>
<p style="text-align: center;"><b>THIS FACT SHEET WAS DEVELOPED BY EMPLOYMENT AND IMMIGRATION CANADA</b></p>	







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